

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

: CASE NO: 1:10-CR-014

**ERIC DUKE,
SSN: ***-**-3457**

: JUDGE BLACK

Defendant.

and

**GAIL M. FOGLE, IN HER CAPACITY AS
TRUSTEE FOR THE ROBERT TEVLIN TRUST
Garnishee.**

AMENDED CLERK'S NOTICE OF GARNISHMENT

You are hereby notified that a garnishment of the nonexempt property (including nonexempt disposable earnings) is being taken by the United States of America which has a judgment in Case No. 1:10-CR-014 in the United States District Court for the Southern District of Ohio, WESTERN Division, in the sum of \$2,215,309.50 plus accrued interest for monies owed the United States. As of August 22, 2018 a balance of \$2,067,029.50 remains outstanding.

In addition, you are hereby notified that there are exemptions under the law which may protect some of the property from being taken by the Government if you, Eric Duke, can show that the exemptions apply. The attached "Notice to Defendant on How to Claim Exemptions" and "Claim for Exemption Form" summarize the major exemptions.

If you are Eric Duke, you have a right to ask the court to return your property to you if you think the property the Government is taking qualifies under one of the specified exemptions or if you think you do not owe the money to the Government that it says you do.

If you are Eric Duke, and you want a hearing, you must notify the court within 20 days after receipt of the notice. Your request must be in writing, and either mail it or deliver it in person to the Clerk of the Court at: Clerk U.S. District Court, 100 E. Fifth St., U.S. Postoffice & Courthouse, Rm #103 Cincinnati, Oh 45202.

If you wish, you may request the hearing by checking the appropriate space on the Defendant's Request for Garnishment Hearing form attached to this notice and mailing or delivering your request form to the Clerk of the Court.

You must also send a copy of your request to the government in care of :

Bethany J. Hamilton
Assistant United States Attorney
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215-2401

so that the Government will know that you want a hearing. The hearing may take place as soon as 5 days after the Clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

At the hearing you may explain to the judge why you believe the property (including nonexempt disposable earnings) the Government has taken is exempt or why you do not owe the money to the Government.

If you think you live outside the federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding be transferred by the court to the federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the Clerk of the Court at:

Clerk U.S. District Court, 100 E. Fifth St., U.S. Postoffice & Courthouse, Rm #103 Cincinnati, Oh 45202

You must also send a copy of your request to the Government in care of:

Bethany J. Hamilton
Assistant United States Attorney
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215-2401

so that the Government will know that you want the proceedings to be transferred.

Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the Clerk of the Court. The clerk is not permitted to give legal advice, but can refer you to other sources of information.

RICHARD W. NAGEL, CLERK OF COURTS
United States District Court

8/22/18
Date

s/Janet McLemore
Deputy Clerk

NOTICE TO DEFENDANT ON HOW TO CLAIM EXEMPTIONS

TO: Eric Duke
1638 Brandon Dr.
Hebron, KY 41048

The attached post-judgment collection action has been issued on request of the United States of America.

The law provides that certain property and wages cannot be taken. Such property is said to be exempted. The Claim for Exemption Form lists the available exemptions. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption, you should fill out the Claim for Exemption Form and deliver or mail the form to the Clerk's office of this Court and counsel for the United States.

Under the Federal Debt Collection Procedures Act of 1990 (FDCPA), you have the right to request a hearing. You have a right to have the hearing within 5 business days, or as soon as practicable, from the date you file your claim with the Court.

If the United States of America as creditor is asking that your wages be withheld, the method of computing the amount of wages which are exempt from garnishment by law is indicated on the Claim for Exemption Form, which is attached. If you believe the wrong amount is being withheld, you may file a claim for exemption.

The garnishee, the person who is in custody or control of your property, is required to serve an answer within 10 days after receiving a Writ of Continuing Garnishment. Under the FDCPA, within 20 days after receipt of the answer, you may file a written objection to the answer and request a hearing. In your written objection you must state the grounds for the objection and bear the burden of providing the basis of your objection. You must serve a copy of the objection and request for a hearing upon all parties.

If you request a hearing, you should come to court ready to explain why your property is exempt, and you should bring any documents which may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights. You may wish to seek the advice of an attorney in this matter.

CLAIM FOR EXEMPTION FORM
EXEMPTIONS UNDER FEDERAL LAW (18 U.S.C. § 3613)

NOTE: 18 U.S.C. § 3613(a), the federal statute governing liens arising from criminal fines and restitution obligations, generally incorporates the exemptions available to individual taxpayers under the Internal Revenue Service Code.

I claim that the exemption(s) from enforcement, which are checked below, apply in this case:

- _____1. Wearing apparel and school books.--Such items of wearing apparel and such school books as are necessary for the debtor or for members of his family.

- _____2. Fuel, provisions, furniture, and personal effects.--So much of the fuel, provisions, furniture, and personal effects in the Debtor's household, and of the arms for personal use, livestock, and poultry of the debtor, as does not exceed **\$9,380** in value.

- _____3. Books and tools of a trade, business, or profession.--So many of the books, and tools necessary for the trade, business, or profession of the debtor as do not exceed in the aggregate **\$4,690** in value.

- _____4. Unemployment benefits.--Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.

- _____5. Undelivered mail.--Mail, addressed to any person, which has not been delivered to the addressee.

- _____6. Certain annuity and pension payments.--Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 1562), and annuities based on retired or retainer pay under Chapter 73 of Title 10 of United States Code.

- _____7. Workmen's Compensation.--Any amount payable with respect to compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.

- ____ 8. Judgments for support of minor children.--If the debtor is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment.
- ____ 9. Certain service-connected disability payments.-- Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of Title 38, United States Code) disability benefit under--(A) subchapter II, III, IV, V, or VI of Chapter 11 of such Title 38 or (B) Chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such Title 38.
- ____ 10. Assistance under Job Training Partnership Act.
--Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.
- ____ 11. Minimum exemptions for wages, salary and other income. The exemptions under 26 U.S.C. § 6334(a)(9) do not apply in criminal cases. The exceptions under the Consumer Credit Protection Act, 15 U.S.C. § 1673, for disposable earnings, automatically apply and do not need to be claimed. The aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed (1) 25 % of his disposable earnings for that week, or (2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage in effect at the time the earnings are payable, whichever is less.

The statements made in this claim of exemptions and request for hearing as to exemption entitlement and fair market value of the property designated are made and declared under penalty of perjury that they are true and correct.

____ I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail at:

(_____) or telephonically at (_____)
Address Phone No.

Debtor's printed or typed name

Signature of debtor

Date

INSTRUCTIONS FOR OBJECTING TO THE ANSWER AND OBTAINING A HEARING ON THE OBJECTIONS

The garnishee, the person who is in custody or control of your property, is required to serve an answer within 10 days after receiving a Writ of Continuing Garnishment. Under the FDCPA, within 20 days after receipt of the Answer, you may file a written objection to the answer and request a hearing on the objections. In your written objection, you must state the grounds for the objection and bear the burden of proving then basis for your objection. You must serve a copy of the objection and request for a hearing upon all parties.

The hearing will take place within 10 days after the date the request is received by the Court or as soon thereafter as practicable. If you request a hearing, you should come to Court ready to explain the basis for your objections and you should bring any documents which may help you prove your case. If you do not come to Court at the designated time and prove your objections, you may lose some of your rights.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

: CASE NO: 1:10-CR-014

**ERIC DUKE,
SSN: ***-**-3457**

Defendant.

and

ROBERT TEVLIN TRUST

Garnishee.

DEFENDANT'S REQUEST FOR GARNISHMENT HEARING

_____ I request a hearing.

_____ I request an expedited hearing within 5 days.

Date

Eric Duke

CERTIFICATE OF SERVICE

A true copy of the above and foregoing Defendant's Request for Garnishment Hearing was mailed to Bethany J. Hamilton, Assistant United States Attorney, Southern District of Ohio, 303 Marconi Boulevard, Suite 200, Columbus, Ohio 43215-2401, by first class mail, postage prepaid, this _____ day of _____, 2018.

_____, Defendant

TO: Gail M. Fogle
Trustee for the Robert Tevlin Trust
3972 Sandtrap Circle
Mason, OH 45040

INSTRUCTIONS TO THE GARNISHEE

Attached is a Writ of Continuing Garnishment requesting that you determine whether or not you have in your possession, custody or control any of the property of the debtor listed herein, or any other property of the debtor. **You are required by law to serve a written answer to this Writ within 10 days of your receipt of this Writ.** You must file the original answer with the Court issuing this Writ and serve a copy to Eric Duke, Defendant, and Bethany J. Hamilton, Counsel for the United States. You are further required to withhold and retain any property in which Defendant has a substantial non-exempt interest until the Garnishment Order is signed by this Court and you are instructed regarding payments. A list of exemptions which are not subject to the Writ of Continuing Garnishment is attached to the Clerk's Notice, entitled Claim for Exemption Form.

IF YOU FAIL TO ANSWER THIS WRIT OR TO WITHHOLD PROPERTY IN ACCORDANCE WITH THE WRIT, THE COURT MAY MAKE YOU LIABLE FOR THAT AMOUNT OF THE DEFENDANT'S NON-EXEMPT PROPERTY WHICH YOU FAILED TO WITHHOLD. ADDITIONALLY, YOU MAY BE HELD LIABLE FOR REASONABLE ATTORNEY FEES TO THE UNITED STATES OF AMERICA IF THE UNITED STATES FILES A PETITION TO THE COURT REQUESTING AN EXPLANATION FOR YOUR FAILURE TO COMPLY WITH THIS WRIT.

If you have additional questions, please call the United States Attorney's Office, Financial Litigation Unit at (614) 469-5715 or write to:

Bethany J. Hamilton
Assistant United States Attorney
Southern District of Ohio
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215-2401

**IN THE UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,

Plaintiff,

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: CASE NO: 1:10-CR-014

**ERIC DUKE,
SSN: ***-**-3457**

: JUDGE BLACK

Defendant.

and

**GAIL M. FOGLE, IN HER CAPACITY AS
TRUSTEE FOR THE ROBERT TEVLIN TRUST
Garnishee.**

ANSWER OF THE GARNISHEE

_____, BEING DULY SWORN DEPOSES AND SAYS:
(Affiant)

- A. That he/she is the _____ (state official title, relationship, etc.) of
Garnishee, Gail M. Fogle, in her capacity as Trustee for the Robert Tevlin Trust.
- B. On _____, 2018, Garnishee was served with the Writ of Continuing
Garnishment. As of this date of service Garnishee has custody, control or possession of
earnings because Defendant is or was in my/our employ. _____ Yes _____ No. (If the
answer is yes, complete items 1 and 2 below):
1. Defendant's pay period is _____ weekly, _____ bi-weekly, _____ semi-monthly,
_____ monthly. Enter the date the present pay period began. _____
("Present" means the pay period in which this order and notice of garnishment were
served) Enter the date the above pay period ends. _____

2. The amount of the Defendant's net wages are:

- a) Gross Pay
- b) Federal Income Tax
- c) F.I.C.A. Income Tax
- d) State Income Tax
- e) Total of tax withholdings
- f) Net Wages (total is (a) less total of (e))

C. Have there been, or are there currently, other garnishments in effect? (Including, but not limited to, child support and alimony.) _____ Yes _____ No.

If the answer is yes, describe below.

D In addition to earnings, the Garnishee has custody, control or possession of non-earnings property (such as commissions, bank/investment accounts, stocks, etc.) in which the Debtor maintains an interest. Yes No (If the answer is yes, describe below)

	<u>Description of</u> <u>Property</u>	<u>Approximate</u> <u>Value</u>	<u>Description of Debtor's</u> <u>Interest in Property</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

E. Garnishee anticipates owing to Defendant in the future, the following amounts (non-earnings only):

	<u>Amount</u>	<u>Estimate Date or Period Due</u>
1.	\$ _____	_____
2.	\$ _____	_____
3.	\$ _____	_____
4.	\$ _____	_____

F. Complete items 1 through 3 below, if applicable:

1. The Garnishee makes the following claim of exemption on the part of Defendant as indicated on the Claim for Exemption Form.

2. The Garnishee has the following objections, defenses or set-offs to Plaintiff's right to apply Garnishee's indebtedness to Defendant upon Plaintiff's claim:

3. The Garnishee was not and is not indebted or under liability to Defendant, and the Garnishee did not or does not have in his/her possession or control any property belonging to the Defendant, or in which the Garnishee has an interest; and is not liable as Garnishee in this action for the following reason(s):

G. The Garnishee delivered or mailed a copy of the original of this Answer by first-class mail to:

- (1) Clerk U.S. District Court
100 E. Fifth St.
U.S. Postoffice & Courthouse, Rm #103
Cincinnati, Oh 45202
- (2) the Defendant:
Eric Duke
1638 Brandon Dr.
Hebron, KY 41048
- (3) the Attorney for the United States:
Bethany J. Hamilton, Assistant United States Attorney
U.S. Attorney's Office for the Southern District of Ohio,
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215-2401

Garnishee & Telephone Number

Subscribe and sworn to before me this _____ day of _____, 2018.

Notary Public
My Commission expires: _____

**ATTACHMENT TO ANSWER OF
GARNISHEE The Original Answer must be mailed to:**

Clerk U.S. District Court
100 E. Fifth Street
U.S. Postoffice & Courthouse, Rm #103
Cincinnati, Oh 45202

and a copy of this Answer to:

Bethany J. Hamilton
Assistant United States Attorney
Southern District of Ohio
303 Marconi Boulevard, Suite
200 Columbus, Ohio 43215-2401

and a copy of this Answer to the Defendant:

Eric Duke
1638 Brandon Dr.
Hebron, KY 41048